

DOCKET NO. 91-17-C - ORDER NO. 91-228

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This matter is before the Public Service Commission of South Carolina (the Commission) on the January 3, 1991, application of BellSouth Mobility, Inc. (Applicant). Applicant seeks a Certificate of Public Convenience and Necessity to operate and construct a cellular radio telecommunications system in the Oconee Rural Service Area (RSA) No. 1 and approval of its proposed rates and charges. The South Carolina County of Oconee composes RSA No. 1.

The application was filed under the provisions of S.C. Code Ann. §§58-9-10(6), 58-9-280, 58-11-10(f), and 58-11-100 (1976). The application was duly noticed to the public. The Commission did not receive any Petitions to Intervene or other protest.

Prior to the filing of the pending application with the Commission, Applicant submitted an Application for Authorization (FCC Form 401) of a cellular radio system to the Federal Communications Commission (FCC) pursuant to 47 C.F.R. Part 22. This application requested that Applicant be granted authorization to construct, test, and operate a Domestic Public Cellular Radio

Telecommunications System in RSA No. 1. By Order No. 85-391, this Commission has previously found that "the FCC has pre-empted authority over the issues of technical standards, market structure, and public need with respect to cellular communication services." Under this pre-emptive authority, the FCC has determined that there is a nationwide public need for cellular mobile radio telephone service in the United States due to the frequency congestion in traditional forms of mobile telephone service, and that RSA No. 1 is an area which exhibits a need for cellular mobile radio telephone technology. Pursuant to FCC regulations, only two applicants, one wireline carrier and one non-wireline carrier, will be authorized to operate cellular mobile radio telephone systems and service in any one RSA. The FCC designated the Applicant as the wireline licensee to construct and operate a cellular system for RSA No. 1. See Application and Curran's testimony.

A public hearing on the matters asserted in the application was held in the Hearing Room of the Commission at 111 Doctors Circle at 11:00 a.m., on February 26, 1991, before Commissioners Butler, Blackburn, Mitchell, and Fuller, with Chairman Marjorie Amos-Frazier presiding. M. John Bowen, Jr., Esquire, appeared on behalf of the Applicant and Gayle B. Nichols, Staff Counsel, appeared on behalf of the Commission Staff.

At the hearing Applicant presented the testimony of Thomas J. Curran, Director of External Affairs for Centel Cellular Company (Centel). Applicant and Centel have a contractual arrangement by which Centel agrees to construct, operate, and manage the cellular

radio telecommunications services for Applicant.<sup>1</sup> Mr. Curran stated that Centel eventually intends to purchase Applicant's FCC authorization. Mr. Curran amended Applicant's proposed tariff by stating that "Company" is defined as BellSouth Mobility, Inc. instead of South Carolina No. 1. He also amended the Applicant's rates and charges in the proposed tariff by indicating that a maximum charge of \$1.50 per month per access number would be charged for call restriction services instead of \$35.00.

Curran further testified that knowledge of the population and the demographic characteristics of RSA No. 1 indicate the presence of a demand for cellular mobile radio telephone service in RSA No. 1. In its application, Applicant proposed that it would provide wholesale and retail distribution of its cellular services.<sup>2</sup> Curran testified that Applicant is fit, willing, and able to provide the proposed cellular service as evidenced by its technical expertise, financial support, experience, training, and knowledge of the personnel who will be available to operate and advise regarding operation and management of the proposed facility. Curran testified that Applicant will require approximately \$.8 million to fund construction and initial operation of the system and that the funds will be generated internally.

According to Curran, the proposed cellular mobile telephone

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1. In actuality, Centel has executed a construction contract with United Telecommunications, Inc. (United) and United has assigned its rights under the contract to Applicant. Hearing Exhibit 1.

2. In Order No. 85-539 in Docket 84-516-C, the Commission recognized that retailers of cellular mobile radio telephone services are not subject to its jurisdiction.

system will initially be served by one cell and that, as demand increases, Applicant will expand the system by adding more voice channels and cells. Each cell will have a number of low-power transmitters and a number of receivers to service mobile or portable telephones within its boundaries. Adjacent cells will be assigned different voice channel frequencies to avoid co-channel interference. When calls are sufficiently separated, frequencies can be reused. A central digital switch will route all calls between the mobile or portable units and the public switched telephone network as necessary to complete the call. The central switch will also control the transfer of the transmitting/receiving function from one cell transmitter/receiver to an adjacent cell transmitter/receiver as the mobile or portable telephone travels from one cell to the next. The transfer of an ongoing call from one cell to another includes a change of voice channel frequency to the frequency allotted the cell in which the mobile or portable phone is then located.

Curran further explained that both mobile and portable units use direct dialing and that voice transmission quality is generally equivalent to that of a conventional landline telephone. Mobile units that are within the cellular geographic service area (CGSA) will have the ability to place or receive a local call and to make or receive toll calls to and from any point in the work served by the public telephone network.<sup>3</sup>

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3. A map of the CGSA within RSA No. 1 is attached to the application.

Finally, Curran testified that the rates set out in the proposed wholesale cellular telecommunications service tariff consist of an access charge and a usage charge, set at a maximum level. These rates and charges have been developed taking into account the cost of constructing and operating the RSA system, the potential risk of providing a highly discretionary service in a competitive market structure, and the need to attract sufficient demand to ensure that the system is economically viable. Service of this nature is being sold at other locations with similar rates. The monthly access charge ranges from \$15.00 to \$35.00 per access number per month depending upon volume, and each minute of usage during peak periods ranges from \$.35 to \$.65 per minute with off peak rates ranging from \$.25 to \$.30 per minute. The Applicant will offer numbers to customers in blocks of ten with an initial minimum requirement of fifty numbers. Quantity discounts for number usage will be provided as an incentive to resellers to promote the use of service. Optional features such as call forwarding, call diversion, call answering, call waiting, and three-way calling will also be offered. Only call forwarding and call diversion services will have a recurring cost of \$.25 per minute of feature use per access number per month. Curran agreed to amend the proposed tariff to provide for a late payment charge on invoices which remain unpaid more than thirty (30) days after the date of the mailing of the invoice.<sup>4</sup>

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4. The proposed tariff had provided for a late payment charge on invoices remaining outstanding more than twenty (20) days after the mailing of the invoice.

After consideration of the testimony presented, a review of all the documents filed in this matter, the absence of intervention or other protest in this matter, and the applicable law, the Commissions concludes as follows:

1. There exists a public need for cellular communication services in the Oconee Rural Statistical Area, RSA No. 1, and that the public convenience and necessity requires the construction and operation of such services.

2. Only one wireline and one non-wireline carrier will be authorized to provide such service in RSA No. 1 and Applicant is the FCC's selectee to provide wireline service to RSA No. 1.

3. The Applicant has shown itself to be fit, willing, and able to provide cellular communication services and, therefore, the Applicant is hereby granted a Certificate of Public Convenience and Necessity to operate and construct a cellular radio telecommunication system in RSA No. 1.

4. Applicant will provide wholesale cellular service in a non-discriminatory fashion to those who wish to retail the service to individual subscribers. The end using subscriber will buy cellular equipment and network from these retailers. The retailers of the services offered by Applicant are not within the jurisdiction of the Commission.

5. While the Commission is conscious of the need for cellular companies to adjust rates and charges timely to reflect the forces of economic competition, the Commission is not convinced that rate and tariff adjustments below the approved maximum levels should be accomplished without notice to the Commission and to the public.

Accordingly, the Commission adopts a rate design for the Applicant which includes a maximum rate level for each tariff charge with flexibility for downward adjustment as previously adopted by this Commission. IN RE: Application of GTE Sprint Communications Corporation, Order No. 84-662 in Docket No. 84-10-C (Aug. 2. 1984).

6. Applicant shall file its tariff setting forth its maximum rates as sponsored by Curran within thirty (30) days of the date of this order. The Applicant shall incorporate provisions for filing of proposed rate changes and shall include provisions for publication of notice of such changes two (2) weeks prior to the effective date of such changes and provisions stating that affidavits of publications must be filed with the Commission. This tariff shall also reflect any additional determinations made herein by the Commission. Likewise, Applicant shall file a price list reflecting its current charges. The tariff and price list shall be filed with the Commission in the name of the Applicant.<sup>5</sup>


7. The Commission considers that any proposed increase in the maximum rate levels reflected in Applicant's tariff which should be applicable to the carrier's general body of subscribers constitutes

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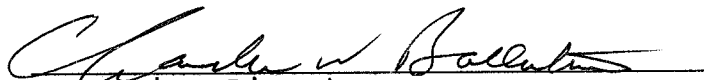
5.Applicant's proposed maximum wholesale tariff accompanying its application was submitted in the name of Centel Cellular Company.

a general ratemaking proceeding which shall be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-11-70 (1976).

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)